

BILL ANALYSIS

Senate Research Center

S.B. 99
By: Ellis
Business and Commerce
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, there is no Texas statute that addresses discrimination based on being a victim of identity theft. In a 2003 study done by the Federal Trade Commission, victims of identity theft were asked whether they had experienced various types of problems as a result of having their personal information misused. A total of 36 percent of identity theft victims reported a problem with one of the following: getting a loan, opening or using a credit card, opening a bank account, or cashing checks.

S.B. 99 prohibits a lender or any other person involved in a transaction from denying credit or loans or restricting or limiting the credit extended to a person based on the person being a victim of identity theft. This bill would provide victims of identity theft with another tool to mend their credit histories and bring state law in line with the Federal Equal Credit Opportunity Act, which prohibits creditors from discriminating against credit applicants who exercise their rights, in good faith, under the Fair Credit Billing Act.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 3 (Section 706.005, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 35, Business & Commerce Code, by adding Section 35.585, as follows:

Sec. 35.585. EXTENSION OF CREDIT TO VICTIM OF IDENTITY THEFT. (a) Defines "victim of identity theft." Prohibits a person who has been notified that an individual who has the capacity to contract has been the victim of identity theft from denying the individual an extension of credit, including a loan, in the individual's name or restricting or limiting the credit extended solely because the individual has been a victim of identity theft. Provides that this subsection does not prohibit a person from denying an individual an extension of credit for a reason other than because the individual has been a victim of identity theft.

(b) Provides that a license issued under Subtitle B (Loans and Financed Transactions), Title 4, Finance Code, that is held by a person who violates this section is subject to revocation or suspension under that title.

SECTION 2. Amends the heading to Subtitle F, Title 5, Insurance Code, to read as follows:

SUBTITLE F. INSURANCE FRAUD AND IDENTITY THEFT

SECTION 3. Amends Subtitle F, Title 5, Insurance Code, by adding Chapter 706, as follows:

CHAPTER 706. IDENTITY THEFT INSURANCE

Sec. 706.001. DEFINITIONS. Provides that the definitions adopted under Article 5.13–2 (Rates and Forms for Certain Property and Casualty Insurance) apply to this chapter. Defines "identity theft."

Sec. 706.002. COVERAGE AUTHORIZED. (a) Authorizes an insurer authorized to write property and casualty insurance in this state to offer and issue insurance coverage for a loss suffered by a policyholder as a result of the policyholders' [sic] being a victim of identity theft or attempted identity theft.

(b) Sets forth authorized coverages authorized by Subsection (a).

Sec. 706.003. ELIGIBLE POLICYHOLDERS. Sets forth eligibility requirements for an insurer to issue coverage authorized under Section 706.002. Authorizes an entity described by Subsection (a)(2) to be a certain group.

Sec. 706.004. RATES AND FORMS. Provides that notwithstanding any other law, rates and forms for insurance coverage issued under this chapter are governed by Article 5.13–2.

Sec. 706.005. RULES. Authorizes the commissioner of insurance to adopt rules as necessary to implement this chapter.

SECTION 4. Amends Section 2(a), Article 5.13-2, Insurance Code, to provide that this article applies to identity theft insurance coverage issued under Chapter 706, issued by an insurer authorized to engage in the business of insurance in this state.

SECTION 5. Effective date: September 1, 2005.